

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 17, 2004

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Vogel (Miriam A.), J., Mallano, J., Suzukawa, J. (Assigned) and D. Nolan, Deputy Clerk.

B172686 Yoon Hwa Kim, et al.
 v.
 Samick America Furniture, Inc., et al.

Merits:
Argued by Martin F. Goldman for appellants and by David S. Kim for respondents. Cause submitted.

Vogel, J. leaves the bench.

B174682 Leonardo Alvarado, et al.
 v.
 Cafe-Club Fais Do-Do, et al.

Merits:
Argued by Richard MacNaughton for appellants and by Roni Hardy for respondents. Cause submitted.

Vogel, J. returns to the bench.

DIVISION ONE (Continued)

B167556 C.J. Jones
 v.
 Ameriquest Mortgage Company, et al.

Merits:
Argued by Philip P. DeLuca for appellant and by Wendy Watanabe for
respondent Ameriquest. Timothy Ryan waives oral argument for
respondent Fremont. Cause submitted.

B168873 Gary Huerta, et al.
 v.
 Steven Flick, et al.

Merits:
Argued by Kurt L. Schmalz for appellants and by Joel B. Feinberg for
respondents. Cause submitted.

B169200 Robert D. Hart
 v.
 American Express Financial Advisors, Inc., et al.

Merits:
Argued by Brandon Reif for appellants and by M. Stephen Coontz for
respondent. Cause submitted.

B175609 Stephen M. Gaggero
 v.
 Superior Court, Los Angeles County
 (First Federal Bank of California, r.p.i.)

Merits:
Argued by David Chatfield for petitioner and by Lawrence A. Abelson for
real party in interest. Cause submitted.

Vogel. J. leaves the bench.

DIVISION ONE (Continued)

B172838 Victoria Montano, et al.
 v.
 Steven Garcia

Merits:
Argued by Anthony G. Chavos for appellants and by Lawrence S.
Rookhuyzen for respondent. Cause submitted.

B173453 Suzanne Wilson-Fellows
 v.
 Smart & Final, Inc., et al.

Merits:
Argued by Janice Corsino for appellant and by Joseph C. Craven for
respondents. Cause submitted.

Mallano, J leaves the bench.

Suzukawa, J leaves the bench.

Vogel, J. returns to the bench.

B172053 David M. Horwitz, et al.
 v.
 City of Los Angeles, et al.,
 Mehr Z. Belgari, et al.

Merits: Argued by Mark E. Baker for real parties in interest, by Michael L.
Klekner, Deputy City Attorney for appellant, and by Jason M. Frank for
respondents. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Spencer, P.J., Vogel (Miriam A.), J., Suzukawa, J. (Assigned) and D. Nolan,
Deputy Clerk.

DIVISION ONE (Continued)

B172732 Imre Domby
v.
Ann E. Hoyt

Merits:

Argued by Imre Domby appellant in propria persona and by Glenn M. Navis for respondent. Cause submitted.

Mallano, J. assumes the bench.

Vogel, J. leaves the bench.

B164826 Ronald B. Siegel, et al.
v.
Earl Racine, et al.

Merits:

Argued by Steven L. Zelig for appellants, by L. Rachel Helyar for respondent Racine and by Hall Marston for respondent Boldt. Cause submitted.

Court adjourned.

DIVISION TWO

B168980 People (Not for Publication)
v.
Zinchenko, et al.

The judgments are affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

November 17, 2004 (Continued)

DIVISION TWO (Continued)

B170309 Looney, et al.
v.
K.W. Cook Investments, et al.

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed September 12, 2003) dismissed.

DIVISION THREE

B163415 Michael T. Leonte and Richard H. Best
v.
Lockheed-Martin Corporation, et al.

Filed order denying petition for rehearing.

DIVISION FOUR

B171196 Rosner (Not for Publication)
v.
Uplifters Ranch Homeowners Association

The portion of the judgment declaring that appellant Uplifters Ranch Homeowners Association has no authority to impose liens on the Rosners' property is affirmed. The portions of the judgment that the Association may not regulate parking of those who did not assent to the Uplifters Declaration; that it may not impose liens on the property of those who did not assent to the Uplifters Declaration (excluding respondents); that it is not a valid mandatory homeowners association under the Davis-Stirling Act; and ordering cancellation of the recording of the Uplifters Declaration are reversed. The case is remanded for the trial court to prepare and enter a judgment consistent with this decision. The parties are to bear their own costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
Grimes, J. (Assigned)

November 17, 2004 (Continued)

DIVISION FOUR (Continued)

B176608 The People (Certified for Publication)

V.
Superior Court, Los Angeles County
(Ronald Decker, r.p.i.)

Let a writ of mandate issue commanding the respondent court to vacate its ruling dismissing the counts of attempted murder and to reinstate those counts. The stay of proceedings, previously issued by this court, is dissolved.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FIVE

B174972 Los Angeles County, D.C.S. (Not for Publication)

V.
Sherrie S.,
In re Roberta A.

The judgment is affirmed.

Mosk, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

DIVISION SIX

B175003 People

V.
Argueta

Filed order denying petition for rehearing.

November 17, 2004 (Continued)

DIVISION SIX (Continued)

B176808 People (Certified for Publication)
v.
Thompson

The judgment of the appellate division is reversed. The trial court is ordered to vacate appellant's guilty pleas and its order denying the motion to suppress and enter a new order granting the motion to suppress.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B166839 Uribe
v.
Aviles

Filed order denying petition for rehearing.

DIVISION SEVEN

B170399 Frankel (Not for Publication)
v.
Cedars-Sinai Foundation

The judgment is affirmed. Respondent(s) to recover costs.

Zelon, J.

We concur: Perluss, P.J.
Johnson, J.

November 17, 2004 (Continued)

DIVISION SEVEN (Continued)

B172040 People (Not for Publication)
v.
Pamilton

The judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.
Johnson, J.

B175891 People (Not for Publication)
v.
Durant

The judgment is affirmed.

Zelon, J.

We concur: Johnson, Acting P.J.
Woods, J.

B175494 People (Not for Publication)
v.
Goff

The judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION SEVEN (Continued)

B174788 People (Not for Publication)
v.
Michael S.

Probation condition 15 is modified to read, "Do not associate with anyone known to you to be disapproved by your grandmother or probation officer." As modified the juvenile court's order is affirmed.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B168040 People (Not for Publication)
v.
Salazar

The judgment is affirmed as modified. The sentence and abstract of judgment are ordered corrected to: (1) delete reference to the 15-year enhancement under section 186.22, subdivision (b)(5), and (2) impose a minimum parole eligibility term of 15 years under 186.22, subdivision (b)(5). The superior court is directed to prepare a corrected abstract of judgment and forward it to the Department of Corrections.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.

B168112 Hubner
v.
Hubner

(Not for Publication)

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION SEVEN (Continued)

B173950 Dadon et al. (Not for Publication)
 v.
 Buckley

The postjudgment order denying Buckley's motion to set aside the default and default judgment is reversed. On remand the trial court is to enter a new order granting the motion and vacating the default and default judgment entered against Buckley and to conduct further proceedings not inconsistent with this opinion. Buckley is to recover his costs on appeal.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B172262 Steinmetz (Not for Publication)
 v.
 Shabsis et al.

The order granting the law firm's special motion to strike and granting in part Shabsis's special motion to strike is affirmed. The matter is remanded to the trial court to determine the amount of attorney fees and costs on appeal to be awarded to the law firm and Shabsis.

Perluss, P.J.

We concur: Johnson, J.
 Woods, J.

B156594 Cziraki (Not for Publication)
 v.
 Phillis et al.

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, J.

We concur: Perluss, P.J.
 Woods, J.

November 17, 2004 (Continued)

DIVISION SEVEN (Continued)

B169761 People v. Smith (Not for Publication)

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Zelon, J.

DIVISION EIGHT

B166838 People v. Rivera (Not for Publication)
B175011 In re Edwin Rivera on Habeas Corpus

The judgment is affirmed, and the petition for writ of habeas corpus is denied.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.